CALIFORNIA GAMBLING CONTROL COMMISSION

Physical Address: 2399 Gateway Oaks Drive, Suite 100 • Sacramento, CA 95833-4231 Mailing Address: P.O. Box 526013 • Sacramento, CA 95852-6013 Phone: (916) 263-0700 • FAX: (916) 263-0452



Staff Report

Date: January 30, 2006

From: Cy Rickards, Chief Counsel

Heather Hoganson, Staff Counsel

Subject: <u>Disciplinary Regulations</u>

Commission staff has been working on discipline regulations since approximately mid-2003. These regulations are intended to cover those individuals and entities within the broad range of the Commission's jurisdiction, including cardroom owners, key employees, proposition players, gambling business registrants, manufacturers and distributors of gambling equipment, persons given any approval or finding of suitability, and employees holding state or local work permits. The regulations are intended to give the Commission and the Division of Gambling Control (the Division) the ability to take disciplinary action¹, and are designed to promote adherence to the Gambling Control Act and related regulations through a graduated range of sanctions, from warnings to license revocation.

In developing this draft, research was done on other gambling jurisdictions as well as other licensing agencies in California regarding discipline; meetings were held with the Division, with cardroom representatives, and with representatives from the third party providers of proposition player services. Two public workshops were held, in February 2005 and in July 2005.

The attached draft contains a number of options for the Commissioners to choose as staff pursues the formal Administrative Procedure Act Notice and Comment. Please note that once this draft is approved for comment, there will be a 45-day comment period for the public to send in comments, and a formal public hearing. If any substantive changes are made, additional 15-day comment periods will be held on those changes. Finally, the proposed draft will be placed on the agenda for Commission approval before being sent to the Office of Administrative Law for review and filing with the Secretary of State.

¹ Any penalty guideline must be in regulation. Government Code section 11425.50.

The Disciplinary Process

In administering the disciplinary process under the Gambling Control Act, the Commission and Division have separate and distinct duties. Essentially, the Division has the role of investigator and prosecutor, while the Commission has an adjudicative role. (Business and Professions Code section 19930.) ²

In fulfillment of its statutory obligations, including discipline, the Division routinely conducts site visits and investigations at the cardrooms. The regulations allow the Division to work with the licensee, and, with regard to relatively minor and/or first-time violations, issue warning notices, notices to cure or advisory letters, in addition to bringing disciplinary violations. The regulations also allow for settlement of violations with approval of all settlements by the Commission. ³

If the Division finds grounds for suspension or revocation, and a settlement is not appropriate or cannot be negotiated, the Division (represented by a lawyer in the Indian and Gaming Law Section of the Attorney General's Office (IGLS)), files, an "accusation" with the Commission.⁴ With regard to such an accusation, the Administrative Procedure Act provides:

A hearing to determine whether a right, authority, license or privilege should be revoked, suspended, limited or conditioned shall be initiated by filing an accusation. The accusation shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his defense. It shall specify the statutes and rules which the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and rules. The accusation shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.⁵

² Section 19930 provides in pertinent part:

[&]quot;(a) The division shall make appropriate investigations as follows . . . (b) If, after any investigation, the division is satisfied that a license, permit, finding of suitability, or approval should be suspend or revoked, it shall file an accusation with the commission in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [Administrative Procedures Act]. (c) In addition to any action that the commission may take against a license, permit, finding of suitability, or approval, the commission may also require the payment of fines or penalties."

³ See proposed sections 12252.

⁴ Bus. & Prof. Code section 19930.

⁵ Government Code section 11503.

The Division's duty is to prove to the Commission that a violation occurred. The Commission's duty is to determine whether or not the violation occurred and, if it did, what the penalty should be.⁶

Pursuant to the Administrative Procedure Act, the Division will send the matter to the Office of Administrative Hearings (OAH), which, on behalf of the Commission, conducts a formal hearing before an administrative law judge (ALJ) who will write a proposed decision for the Commission.

The administrative hearing is similar to a trial before a judge, with a court reporter (unless all parties agree to a tape recorder), witnesses, exhibits, and an ALJ presiding. At the hearing, the ALJ will make credibility findings, rule on evidentiary objections, swear in witnesses, etc. After the hearing, the ALJ will have approximately 30 days to review the evidence and law, and write a proposed decision. This proposed decision would contain findings of fact, legal conclusions, any factors in mitigation or aggravation, and an order. The order will either indicate that the allegations brought by the Division were unproven or that the proven charges should result in revocation, suspension, or a stay of revocation or suspension on terms and conditions.

The Commission, after having read the proposed decision, must vote to adopt, modify, or reject the proposed decision within 100 days. In the event that the Commission fails to act within 100 days, the proposed decision becomes final by operation of law. The Commissioners also may send the proposed decision back to the ALJ for further findings on a particular issue or issues. In the event the Commissioners vote to reject the decision, they must then review the entire transcript (and exhibits) and render their own decision.⁸

Finally, if the Commission decides to make all or part of an adopted decision binding on all licensees etc., the Commission could vote to adopt all or part of the decision as *precedential* pursuant to the Administrative Procedure Act and these draft regulations.⁹

Once the Commission has adopted a decision, it may be appealed in superior court, in a writ proceeding.¹⁰

⁶ Bus. & Prof. Code section 19930.

⁷ The rules of evidence are somewhat relaxed, with hearsay evidence generally admissible, but not sufficient by itself to support a finding. Government Code section 11513.

⁸ Government Code section 11517.

⁹ Government Code section 11425.60.

¹⁰ Bus. & Prof. Code section 19932; Government Code section 11523; Code of Civil Procedure section 1094.5.

This is a draft of disciplinary guidelines which affects all CGCC licensees, registrants, etc. Staff notes are in green. Regulatory text in bold is merely highlighted for the reader's convenience (and will not be in any final adopted regulation).
Brown double-lined boxes indicate Golden State Gaming Association

Brown double-lined boxes indicate Golden State Gaming Association suggestions; blue dashed boxes indicate Division suggestions; red squiggly boxes indicate suggestions made by third party industry members.

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Chapter 10. Discipline, Hearings, and Decisions

12550. Purpose and Scope

- (a) The purpose of this chapter is to set forth disciplinary procedures and guidelines applicable to the holder of any license, registration, permit, finding of suitability, or approval issued by the Commission.
- (b) The disciplinary guidelines in this chapter are designed to promote fairness and flexibility in dealing with a wide range of disciplinary scenarios. Variation in penalties based on circumstances and factors in aggravation or mitigation are part of this disciplinary scheme to promote compliance with applicable laws and regulations.
- (c) Nothing in this chapter is intended to limit the authority of the Commission to issue orders of summary suspension pursuant to Business and Professions Code section 19913, or to limit the authority of the Division to issue emergency orders pursuant to Business and Professions Code section 19931.
- (d) Nothing in this chapter shall be construed to prevent the Commission from ordering an investigation by Commission staff on a matter brought before the

- Commission; instituting a civil action in any superior court to restrain a violation of the Gambling Control Act, pursuant to Business and Professions Code section 19824, subdivision (g); referring a matter to the Attorney General or any district attorney or city attorney for civil, criminal or administrative action; or requesting the Division of Gambling Control to conduct an investigation pursuant to information gathered independently by the Commission or supplied to it by a third party.
 - (e) Nothing in this chapter precludes any person from notifying the Commission or the Division regarding any violations of law or reasons why the holder of any license, registration, permit, finding of suitability, or approval should be disciplined.
- (f) Nothing in this chapter precludes the Division, in its discretion, from issuing warning notices, notices to cure, advisory letters regarding violations or possible violations of law, or from withdrawing such upon further investigation.

Nothing in this section precludes the Division, in its discretion, from issuing informal warning notices, notices to cure or advisory letters regarding violations or possible violations of law, without triggering these disciplinary procedures. The Division may also withdraw Notices of Violation before an accusation is filed.¹

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Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19912, 19914,

19920, 19922, 19924, 19930, 19971, and 19984 of the Business and Professions Code.

Reference: Sections 19913, 19930, and 19931 of the Business and Professions Code.

¹ Options suggested by GSGA which could be incorporated into Staff's recommendation. This language is replicated in GSGA's option for 12552.

1 12552. <u>OPTION FROM STAFF</u>²: Settlements in Lieu of the Formal Hearing Process

- (a) Any settlement of an accusation shall include a plan for immediate abatement of the violation, a plan for immediate compliance with all statutory and regulatory requirements, an agreement to any penalty imposed, and shall be a full and final settlement of the violation including a complete waiver of all judicial or other review unless otherwise agreed to by the Commission.
- (b) Any settlement of an accusation shall be submitted by the Division for approval by the Commission at a noticed Commission meeting. The Commission shall have final approval authority concerning any such settlement. If the Commission rejects a settlement or agreement, and no amended agreement or settlement is reached before two additional regularly noticed Commission meetings have concluded, or sixty days have elapsed, whichever is later, the Division shall proceed with the formal hearing process under this Chapter.
- 16 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19912, 19920,
- 17 19930, 19942, and 19984 of the Business and Professions Code.
- Reference: Sections 19824, 19826, 19827, 19840, and 19930 of the Business and Professions Code.

12570. Settlements

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All settlements of an accusation shall be approved by the Commission at a noticed Commission meeting. Any settlement shall include a plan for immediate abatement of the violation, a plan for immediate compliance with all statutory and regulatory requirements, an agreement to the penalty imposed, and shall be a full and final settlement of the violation including a complete waiver of all judicial or other review unless otherwise agreed to by the Commission.

Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19859, 19875, 19912, 19913,

19914, 19920, 19922, 19924, 19930, 19931 and 19971 of the Business and Professions

Code.

Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,

19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the

Business and Professions Code.

Proposed California Code of Regulations, Title 4, Division 18, Chapter 10 – Discipline, Hearings, and Decisions Revision Date: January 27, 2006. Page 3 of 26.

² This option is Staff's recommendation. Redundant sections from the Administrative Procedure Act are eliminated; the regulation on Settlement (12570) is merged with this one for clarity and consistency. If Staff's option is not taken, the originally separate regulation on settlement may need to be reinserted into these regulations.

12552. OPTION FROM GSGA: Grounds for Issuance of Notice of Violation and Offer to Pay Penalties in Lieu of the Formal Hearing Process.

- (a) Violation of the Gambling Control Act, any regulations adopted pursuant thereto, laws relating to gambling, laws whose violation is materially related to suitability for licensure, registration or the issuance of a work permit, or violation of a previously imposed disciplinary or license condition may, in the discretion of the Division, be the subject of a Notice of Violation issued to a holder of a license, registration, or permit. A Notice of Violation shall specify the code section of the law violated, facts concerning the circumstances of the violation, any corrective action needed, and any penalty to be imposed if accepted pursuant to subsection (d).
- (b) A Notice of Violation may be accompanied by an Offer to Pay a Fine in Lieu of the Formal Hearing Process. The Offer to Pay a Fine may provide for the payment of a Fine on acceptance of the Offer, or that the recipient can cure the violation within a time fixed in the Offer, with a fine to be paid only in the event the violation is not cured within the time allowed. If the Offer includes a fine, the fine shall not exceed that provided in Business and Professions Code sections 19930(c) and 19943(b). The fine shall be proportional to the seriousness of the offense, consider the daily gross income or salary of the respondent, and consider the aggravating and mitigating factors specified in section 12556 of this chapter.
- (c) The recipient of the Notice of Violation may request to meet with the Division and discuss the basis or circumstances of the Notice of Violation. Such a request shall be communicated to the Division in writing within 15 days of service of the Notice of Violation, in compliance with Code of Civil Procedure section 415.10 or 415.20. The Division shall meet with the recipient of the Notice, and any meetings shall occur within ten days of receipt of the request by the Division, unless the parties agree otherwise.
- (d) An acceptance of the Offer to Pay Penalties in Lieu of the Formal Hearing Process by a holder of a license, registration, or permit shall be communicated to the Division in writing within 35 days of service of the Notice, in compliance with Code of Civil Procedure section 415.10 or 415.20.
- (e) If no final agreement is reached between the holder of a license, registration, or permit and the Division after 36 days, the Division shall withdraw the Offer to Pay Penalties in Lieu of the Formal Hearing Process and the Division may proceed with the formal hearing process under this Chapter.
- (f) A copy of all Notices of Violation and Offers to Pay Penalties in Lieu of the Formal Hearing Process shall be sent to the Commission when served upon a holder of a license, registration, or permit. Any agreement to pay a penalty in full or any settlement of an assessed penalty shall be submitted by the Division for approval by the Commission under section 12562. The Commission shall have final approval authority concerning any such payment or settlement. Any payment in full or settlement of an assessed penalty shall include a plan for immediate abatement of all violations and a plan for immediate compliance with all statutory and regulatory requirements. If the Commission rejects an agreement to pay a penalty in full or a settlement of an assessed penalty, and no amended agreement or settlement is reached before two additional regularly noticed Commission meetings have concluded or sixty days have elapsed, whichever is later, then the Division shall proceed with the formal hearing process under this Chapter.
- (g) Nothing in this section precludes the Division, in its discretion, from issuing informal warning notices, notices to cure or advisory letters regarding violations or possible violations of law, without triggering these disciplinary procedures. The Division may also withdraw Notices of Violation before an accusation is filed.

Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19912, 19920, 19930, 19942, and

19984 of the Business and Professions Code.

Reference: Sections 19824, 19840, and 19930 of the Business and Professions Code.

12554. Formal Hearing Process

- (a) Upon the filing with the Commission of an accusation by the Division recommending revocation, suspension, or other discipline of a holder of a license, registration, permit, finding of suitability, or approval, the Commission shall proceed under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
 - (b) In the event that the Division cannot present the accusation, the Commission may request outside counsel or representation by another state agency or may adequately segregate one or more Commission staff members from the Commissioners and Commission legal unit to present the accusation.

(c)

The Administrative Law Judge and Commission shall base their decisions on written findings of fact, including findings concerning any relevant aggravating or mitigating factors.³

Findings of fact shall be based upon a preponderance of the evidence standard. The "preponderance of the evidence standard" is such evidence as when considered and compared with that opposed to it, has more convincing force, and produces a belief in the mind of the fact-finder that what is sought to be proved is more likely true than not true.

Where any disciplinary decision to suspend or revoke an owner's license or registration is based on the owner having committed felony criminal conduct where such felony has not been proven or admitted in a criminal proceeding, the findings of fact relating to any felony conduct shall be based on clear and convincing evidence.⁴

³ Option suggested by GSGA.

⁴ Option suggested by GSGA.

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(d) Upon a finding of a violation of any law related to gambling or gambling establishments,

OPTION-1: Upon a finding of a violation of the Gambling Control Act, any regulations adopted pursuant thereto, any law related to gambling, violation of a previously imposed disciplinary or license condition, or laws whose violation is materially related to suitability for a license, registration, permit, or approval.5

OPTION-2: Upon a finding of a violation of the Gambling Control Act, any regulations adopted pursuant thereto, any law related to gambling or gambling establishments, violation of a previously imposed disciplinary or license condition, or laws whose violation is materially related to suitability for a license, registration, permit, or approval, 6

the Commission may do any one or more of the following:

- Revoke the license, registration, permit, finding of suitability, or (1) approval;
- Suspend the license, registration, or permit; (2)
- (3) Order the licensing authority of a city, county, or city and county to revoke a work permit, pursuant to Business and Professions Code section 19914, subdivision (a),
- Impose any condition, limitation, order, or directive (including but not (4) limited to a directive to divest an interest in a business entity pursuant to Business and Professions Code, section 19879);
- (5) Impose any fine or monetary penalty consistent with Business and Professions Code sections 19930, subdivision (c), and 19943, subdivision (b);
- Stay, in whole or in part, the imposition of a revocation or suspension (6) against the holder of a license, registration, work permit, finding of suitability, or approval, or

⁵ Option suggested by GSGA.

⁶ Option suggested by the Division.

1 2 2	(7)	Order the holder to pay a monetary penalty in lieu of all or a portion of a suspension.
3 4 5		Within the guidelines of Business and Professions Code sections 19930, subdivision (c), and 19943, subdivision (b):
6 7 8		(A) If the respondent is an owner of a gambling establishment, the monetary penalty shall be equivalent of
9	II OPTIOI	V-1: twenty five percent…less a downward adjustment of no
10 11	more th	nan ten percent of the average daily gross gaming revenue for and local fees and that are based upon gross gaming revenue ⁷
	more the state an	nan ten percent of the average daily gross gaming revenue for
11 12	more the state and	nan ten percent of the average daily gross gaming revenue for and local fees and that are based upon gross gaming revenue ⁷

NOTE

Business and Professions Code section 19930, subdivision (c) limits a fine to \$20,000 for each separate violation of statute or regulation.

Business and Professions Code section 19943, subdivision (b) allows the Commission to impose a monetary penalty on persons engaged in controlled gambling that violate Commission regulations. In the first instance, the penalty is limited to \$10,000. If a penalty was imposed in a prior proceeding before the Commission, the penalties for all violations shall not exceed \$25,000. If a penalty was imposed in two or more prior proceedings before the Commission, the penalties for all violations shall not exceed \$100,000.

⁷ Option based suggestion from GSGA.

⁸ Option based on straight percentage from GSGA without tax adjustments.

⁹ Option suggested by the Division.

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OPTION A: If the respondent is an owner of a third-party provider of proposition player services, the monetary penalty shall be the sum of \$1000 plus the total of \$100 multiplied by the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged, which sum shall be multiplied by the number of days for which the suspension is stayed.¹⁰

OPTION B: If the respondent is an owner of a third-party provider of proposition player services, the monetary penalty shall be the sum of \$1000 plus the total of \$300 multiplied by the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged, which sum shall be multiplied by the number of days for which the suspension is stayed.¹¹

- (C) If the respondent is an owner of a gambling business, the monetary penalty shall be \$1500 per day for the number of days for which the suspension is stayed.
- (D) If the respondent is a key employee of a gambling establishment or a supervisor of a gambling business or third-party provider of proposition player services, the monetary penalty shall be \$100 per day for the number of days for which the suspension is stayed.
- (E) If the respondent is a holder of a work permit, a player or other employee of a gambling business or third-party provider of proposition player services, or a person not otherwise described above, the monetary penalty shall be \$50 per day for the number of days for which the suspension is stayed.
- (e) If a person's state gambling license for a gambling establishment is revoked by the Commission pursuant to this chapter, the Commission may stay such revocation for a reasonable period of time to allow such person to sell or divest himself or herself of such person's ownership interest in the gambling establishment, provided that after the date on which the revocation is stayed by the Commission, such person shall not be entitled to, realize, or receive any profits, distributions, or payments that might directly or indirectly be due to such person or which arise out of, are attributable to, or are derived from controlled gambling.

¹⁰ Option supported by Third Party industry.

¹¹ Division Suggestion.

- (f) If an owner of a third-party provider of proposition player services or gambling 1 business has his or her owner's license or registration revoked by the 2 Commission pursuant to this chapter, the Commission may stay such revocation 3 for a reasonable period of time to allow such person to sell or divest himself or 4 herself of such person's ownership interest in the third-party provider of 5 proposition player services or gambling business, provided that after the date on 6 7 which the revocation is stayed by the Commission, such person shall not be entitled to, realize, or receive any profits, distributions, or payments that might 8 directly or indirectly be due to such person or which arise out of, are attributable 9 to, or are derived from the provision of proposition player services. 12 10
- (g) For decisions concerning a gambling establishment, findings shall be made regarding the number of tables in operation at the establishment and the annual 12 gross gaming revenue of the establishment. 13
 - (h) For decisions concerning an owner of a third-party provider of proposition player services, findings shall be made regarding the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged.
 - (i) Any order to pay the costs of investigation or prosecution of the case shall be fixed pursuant to Business and Professions Code section 19930, subdivision (d).
 - (j) For multiple violations, or for suspensions imposed by other jurisdictions based on the same violations, the decision shall state whether any Commissionimposed suspensions shall run consecutively or concurrently.

(k) At any time, the Commission and respondent may enter into a settlement of the accusation as provided in section,

27 Authority:

Sections 19811, 19823, 19824, 19840, 19850, 19853(a)(3), 19854, 19912, 19914, 19920, 19922, 19924, 19930, 19932, 19971, and 19984 of the Business and Professions Code.

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29 Reference: 30

Sections 19857, 19858, 19859, 19862, 19870, and 19878 of the Business and Professions Code, Section 11045 of the Government Code, and Section 10335 of the Public Contract

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¹² Option suggested by the Division.

¹³Option suggested by GSGA. Staff suggests that if this option is chosen, it might be better placed in Regulation 12552 or moved to position earlier in this regulation, perhaps in 12554 (a).

12556. Factors in Mitigation or Aggravation of Penalty

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- If presented by complainant or respondent, the Commission shall consider the following factors in mitigation or aggravation of the penalty imposed:
 - (a) Violation of any previously imposed or agreed upon condition, restriction or directive.
 - (b) Whether or not the conduct was knowing, willful, reckless, or inadvertent.
 - (c) The extent to which respondent cooperated with the Division or Commission during the investigation of the violation.
 - (d) The extent to which respondent was honest with the Division or Commission during the investigation of the violation.
 - (e) The extent to which respondent is willing to reimburse or otherwise make whole any person who has suffered a loss due to the violation.
 - (f) Whether respondent has initiated remedial measures to prevent similar violations.
 - (g) The extent to which respondent realized an economic gain from the violation.
 - (h) Disciplinary history of respondent, repeated offenses of the same or similar nature, or evidence that the unlawful act was part of a pattern or practice.
 - (i) Any other aggravating factors, including any factors which the Commission determines to bear on the health, safety, or welfare of the public.
 - (j) The extent to which there was actual or potential harm to the public or to any patron.
 - (k) The extent to which an owner licensee or key employee of a gambling establishment, owner or supervisor of a third-party provider of proposition player services, or owner or supervisor of a gambling business exercised due diligence in management or supervision.
 - (1) If the violation was caused by an employee of a third-party provider of proposition player services or gambling business, the extent to which the owner licensee, licensee, or registrant knew or should have known of the employee's improper conduct; the level of authority of the employee involved and the extent to which the employee acted within the scope of his or her authority in committing the violation.
 - (m) If the violation was caused by a third-party provider of proposition player services or gambling business, the extent to which the owner licensee or gambling establishment knew or should have known of the improper conduct.
 - (n) If the violation was caused by an independent contractor of a gambling business, the extent to which the gambling business owner licensee, licensee, or registrant knew or should have known of the independent contractor's

- (o) If the violation was caused or committed by a third party, the extent to which the owner licensee, licensee, or registrant knew or should have known of the third party's improper conduct.
- (p) Any relevant evidence offered by respondent in mitigation of the violation.

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(g) Whether the licensee or registrant reasonably relied upon a written opinion from law enforcement, City Attorney, District Attorney or other government official or agency, or written professional advice from an accountant, lawyer or other professional (which advice the respondent must disclose in order to claim reliance on the advice), relevant to the action resulting in the violation.

- (r) Whether the gambling establishment or other business had a reasonably constituted and functioning compliance program.
- (s) The size, profitability and number of employees of the gambling establishment or operation as these factors relate to the owners' culpability, including the ability to comply with regulatory requirements and to supervise and prevent violations, and the owners' ability to pay penalties.
- (t) For minority owners of gambling establishments or operations who do not exercise management or supervisory authority, whether they were ignorant of any violations, ignored or failed to report evidence of violations, knew or should have known of the violations, or were complicit in the violation(s).
- (u) The penalties imposed for similar violations in other cases.
- (v) Fines or penalties incurred by the respondent for the same conduct and imposed by another agency or governmental entity.¹⁴

Authority:

Sections 19811, 19823, 19824, 19840, 19850, 19853(a)(3), 19854, 19912, 19914, 19920, 19922, 19924, 19930, 19932, 19971, and 19984 of the Business and Professions Code.

33 Reference: 34

Sections 19857, 19858, 19859, 19862, 19870, and 19878 of the Business and Professions Code.

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¹⁴ Options suggested by GSGA. Underline suggested amendment by Division.

12558. Disciplinary Guidelines for Holders of Work Permits

- 2 Pursuant to Business and Professions Code, section 19914, the holder of a work
- 3 permit shall be subject to a minimum penalty of a five-day suspension, which may
- 4 be stayed on terms and conditions and any monetary penalty as described in
- section 12554(d)(7) of this chapter, up to a maximum penalty of revocation by the
- 6 Commission if the Commission finds that the holder:
 - (a) Engaged in or committed a prohibited act specified in Business and Professions Code 19914, subdivision (a).
 - (b) Does not currently meet any criterion for eligibility or qualification.
 - (c) Violated or is in violation of any condition, limitation or directive previously imposed on the work permit.
 - (d) Violated or is in violation of any Commission or Division regulations, including those regulations regarding work permits in the California Code of Regulations, title 4, division 18, chapter 2 (commencing with section 12100).

Authority: Sections 19811, 19823, 19824, 19911, 19912, 19914, 19920, 19930, 19932, and 19971 of

the Business and Professions Code.

Reference: Section 19878 of the Business and Professions Code.

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12560. Disciplinary Guidelines for Third-party providers of proposition player services licensees or registrants

(a) If the Commission finds that an owner of a third-party provider of proposition player services, as that term is used in California Code of Regulations, title 4, section 12200, is out of compliance with any mandatory duty specified in or imposed by the Gambling Control Act or any Commission or Division regulation, which is not otherwise listed in these disciplinary guidelines, the penalty shall be one day of suspension of proposition player services from either specified gambling establishments or all gambling establishments, as the circumstances and factors in mitigation or aggravation apply, which may be stayed upon the payment of a monetary penalty as follows:

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(1) If the third party provider of proposition player services has 5 or less licensees or registrants, the penalty shall be between \$50 and \$100, based upon factors in mitigation and aggravation.

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(2) If the third party provider of proposition player services has 6 to 12 licensees or registrants, the penalty shall be between \$100 and \$2000, based upon the factors in mitigation and aggravation.

(b)(15),

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(8) The primary owner has failed to report cheating, in violation of

(7) The owner has failed to fully disclose financial arrangements in violation

California Code of Regulations, title 4, section 12200.7, subdivision

of California Code of Regulations, title 4, section 12200.7, subdivision

⁽b)(18),

¹⁵ Division Suggestion.

1	(9) The owner has purchased, leased, or controlled equipment in violation
2	of California Code of Regulations, title 4, section 12200.7, subdivision
3	(b)(21),
4	(10) The owner has failed to have the proposition player contract
5	approved, in violation of California Code of Regulations, title 4, section
6	12200.7, subdivision (b)(22), or section 12200.9,
7	(11) The owner has authorized or provided payment to or receipt by
8	the gambling establishment, in violation of California Code of
9	Regulations, title 4, section 12200.7, subdivision (c),
10	(12) The owner has been cheating, pursuant to Penal Code, section
11	337x,
12	(13) The owner has committed extortion (as that term is defined in
13	Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with
14	section 518),
15	(14) The owner has committed loan-sharking (as that term is used in
16	Civil Code section 1916-3, subdivision (b)),
17	(15) The owner has conducted or negotiated illegal sales of controlled
18	substances (as that term is used in Chapter 1 (commencing with
19	Section 11000) of Division 10 of the Health and Safety Code) or
20	dangerous drugs (as that term is used in Business and Professions
21	Code, section 4022),
22	(16) The owner has committed bribery (as that term is used in Penal
23	Code section 67 or 67.5),
24	(17) The owner has committed money laundering (as that term is used
25	in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with
26	Section 186.9),
27	(18) The owner has granted rebates to patrons without full disclosure,
28	in violation of California Code of Regulations, title 4, section 12200.7,
29	subdivision (19),
30	(19)
31 32	The owner has violated the provisions regarding playing books listed in California Code of Regulations, title 4, section 12200.13, ¹⁶
33 34 35	(20) The owner has committed any of the acts listed in California Code of Regulations, title 4, section 12200.18, subdivisions (a), (b), (d), (e), (f), (i), (j), (l), (m), or (n), or

¹⁶ Suggestion by the Division.

(21)The owner is providing services as a gambling business without 1 2 first obtaining a gambling business registration or license, in violation of California Code of Regulations, title 4, section 12220 et seg. 3 4 A **supervisor or player**, as those terms are used in California Code of Regulations, title 4, section 12200, shall be subject to a minimum monetary 5 penalty of \$100 and/or a suspension of three days and a maximum penalty of 6 revocation if the Commission finds that: 7 8 (1) The supervisor or player has violated or is out of compliance with conditions, limitations, or orders or directives imposed by the 9 Commission, either as part of an initial grant of license or registration, 10 renewal of such, or pursuant to disciplinary action, 11 (2) The supervisor or player has engaged in any dishonest, fraudulent, or 12 13 deceptive activities in connection with controlled gambling or the 14 provision of proposition player services, (3) The supervisor or player has committed any act punishable as a crime, 15 not otherwise listed in these disciplinary guidelines, which substantially 16 relates to the duties and qualifications of the licensee or registrant, or 17 which occurred in a gambling establishment or the associated adjacent 18 19 property, or 20 (4) The supervisor or player has engaged in any conduct on the premises of the gambling establishment or in connection with controlled gambling 21 or the provision of proposition player services which is inimical to the 22 23 health, welfare, or safety of the general public. (5) The supervisor or player has either failed to wear a badge, worn a 24 badge which was covered, worn a false or altered badge, worn another 25 person's badge, or worn an expired badge, 26 27 (6) The supervisor or player has engaged in fighting or has intentionally 28 provoked a patron or employee at a gambling establishment, (7) The supervisor or player has maliciously or willfully destroyed or 29 damaged the property of the gambling establishment, employee, or 30 patron. 31 32 (8) The supervisor or player has accepted tips, gratuities, 33 complimentaries, or gifts from gambling establishment staff or 34 patrons. 17 35

¹⁷ Suggestion by Third Party Industry Members.

1	(9) The supervisor or player has committed any of the acts listed in
2	California Code of Regulations, title 4, section 12220.18, subdivision
3	(a), or
4	(10) The supervisor or player has failed to comply with California
5	Code of Regulations, title 4, section 12200.21.
6 7 8 9	(d) A supervisor or player , as those terms are used in California Code of Regulations, title 4, section 12200, shall be subject to a minimum monetary penalty of \$300 and/or a suspension of 7 days and a maximum penalty of revocation if the Commission finds that:
10	(1) The supervisor or player has intentionally misrepresented a material
11	fact on an application, request to convert, or supplemental application
12	for licensure, registration, or approval,
13	(2) The supervisor or player has been cheating, pursuant to Penal Code,
14	section 337x,
15	(3) The supervisor or player has committed extortion (as that term is
16	defined in Chapter 7 of Title 13 of Part 1 of the Penal Code,
17	commencing with section 518),
18	(4) The supervisor or player has committed loan-sharking (as that term is
19	used in Civil Code section 1916-3, subdivision (b)),
20	(5) The supervisor or player has conducted or negotiated illegal sales of
21	controlled substances (as that term is used in Chapter 1 (commencing
22	with Section 11000) of Division 10 of the Health and Safety Code) or
23	dangerous drugs (as that term is used in Business and Professions
24	Code, section 4022),
25 26	(6) The supervisor or player has committed bribery (as that term is used in Penal Code section 67 or 67.5),
27	(7) The supervisor or player has committed money laundering (as that term
28	is used in Chapter 10 of Title 7 of Part 1 of the Penal Code,
29	commencing with Section 186.9),
30	(8) The supervisor or player has granted rebates to patrons without full
31	disclosure, in violation of California Code of Regulations, title 4, section
32	12200.7, subdivision (19), or
33	(9) The supervisor or player has committed any of the acts listed in
34	California Code of Regulations, title 4, section 12200.18 subdivisions
35	(b), (c), (d), (f), (g), (h), (i), (j), or (k).
36 37	(e) A license or registration granted by the Commission for an owner of a third-party provider of proposition player services, or for a supervisor or player , as

those terms are used in California Code of Regulations, title 4, section 12200, 1 shall be subject to **revocation** if the Commission finds that: 2 3 (1) The owner, supervisor, or player has been convicted of a felony or a crime of moral turpitude that would disqualify the holder from licensure, or 4 (2) The owner, supervisor, or player no longer meets any criterion for 5 eligibility, pursuant to California Code of Regulations, title 4, sections 6 12204 or 12200.11. 7 8 9 Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19859, 19875, 19912, 19913, Authority: 10 19914, 19920, 19922, 19924, 19930, 19931 19971, and 19984 of the Business and 11 Professions Code. 12 Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880, Reference: 13 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the 14 Business and Professions Code. 15 12562. Disciplinary Guidelines for Gambling business licensees or registrants 16 If the Commission finds that an **owner** of a gambling business, as that term is 17 used in California Code of Regulations, title 4, section 12220, is out of 18 compliance with any mandatory duty specified in or imposed by the Gambling 19 Control Act or any Commission or Division regulation, which is not otherwise 20 listed in these disciplinary guidelines, the penalty shall be **one day** of suspension 21 22 of gambling business services from either specified gambling establishments or all gambling establishments, as the circumstances and factors in mitigation or 23 aggravation apply, which may be stayed upon the payment of a monetary penalty 24 25 as follows: If the gambling business has 5 or less licensees or registrants, the 26 penalty shall be between \$50 and \$100, based upon factors in mitigation and 27 28 aggravation. 29 30 (2) If the gambling business has 6 to 12 licensees or registrants, the penalty shall be between \$100 and \$2000, based upon the factors in 31 32 mitigation and aggravation. 33 34 If the gambling business has 13 or more licensees or registrants, the penalty shall be between \$2000 and \$10000, based upon the factors in 35 mitigation and aggravation. 18 36

¹⁸ Division Suggestion.

A license or registration granted by the Commission for an **owner** of a 1 gambling business, as that term is used in California Code of Regulations, title 4, 2 section 12220, shall be subject to a minimum monetary penalty of \$2500 and/or 3 a discipline of suspension of seven days from either specified gambling 4 establishments or all gambling establishments, as the circumstances and factors 5 in mitigation or aggravation apply, and a maximum discipline of revocation by the 6 7 Commission if the Commission finds that: 8 (1) The owner has violated or is out of compliance with any conditions, limitations, orders, or directives imposed by the Commission, either as 9 part of an initial grant of license or registration, renewal of such, or 10 pursuant to disciplinary action, 11 12 (2) The owner has been found, by any administrative tribunal or court, to have violated or be in violation of any law involving or relating to 13 14 gambling, (3) The owner has intentionally misrepresented a material fact on an 15 16 application or supplemental application for licensure or registration, (4) The owner has violated any law or ordinance with respect to campaign 17 finance disclosure or contribution limitations, pursuant to Business and 18 Professions Code, section 19982, 19 20 (5) The owner has violated California Code of Regulations, title 4, regarding annual fees for gambling businesses, 21 22 (6) The owner has been cheating, pursuant to Penal Code, section 337x, (7) The owner has committed extortion (as that term is defined in Chapter 7 23 of Title 13 of Part 1 of the Penal Code, commencing with section 518), 24 25 (8) The owner has committed loan-sharking (as that term is used in Civil Code section 1916-3, subdivision (b)), 26 27 (9) The owner has conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with 28 Section 11000) of Division 10 of the Health and Safety Code) or 29 dangerous drugs (as that term is used in Business and Professions 30 Code, section 4022), 31 The owner has committed bribery (as that term is used in Penal 32 (10)33 Code section 67 or 67.5),

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(11)

Section 186.9),

The owner has committed money laundering (as that term is used

in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with

1	(12) The owner is providing services as a gambling business without
2	first obtaining a gambling business registration or license, in violation of
3	California Code of Regulations, title 4, section 12220 et seq., or
4	(13) The owner has committed any of the acts listed in California
5	Code of Regulations, title 4, section 12220.18, subdivisions (a), (b), (d),
6	(e), (f), (l), or (m).
7	(c) A supervisor or player, as those terms are used in California Code of
8	Regulations, title 4, section 12220, shall be subject to a minimum monetary
9	penalty of \$100 and/or a suspension of three days and a maximum penalty of
10	revocation if the Commission finds that:
11	(1) The supervisor or player has violated or is out of compliance with
12	conditions, limitations, or orders or directives imposed by the
13	Commission, either as part of an initial grant of license or registration,
14	renewal of such, or pursuant to disciplinary action,
15	(2) The supervisor or player has engaged in any dishonest, fraudulent, or
16	deceptive activities in connection with controlled gambling,
17	(3) The supervisor or player has committed any act punishable as a crime,
18	not otherwise listed in these disciplinary guidelines, which substantially
19	relates to the duties and qualifications of the licensee or registrant, or
20	which occurred in a gambling establishment or the associated adjacent
21	property,
22	(4) The supervisor or player has engaged in any conduct on the premises
23	of the gambling establishment or in connection with controlled gambling
24	which is inimical to the health, welfare, or safety of the general public.
25	(5) The supervisor or player has either failed to wear a badge, worn a
26	badge which was covered, worn a false or altered badge, worn another
27	person's badge, or worn an expired badge,
28	(6) The supervisor or player has engaged in fighting or has intentionally
29	provoked a patron or employee at a gambling establishment,
30	(7) The supervisor or player has maliciously or willfully destroyed or
31	damaged the property of the gambling establishment, employee, or
32	patron,
33	(8)
34 35 36	The supervisor or player has accepted tips, gratuities, complimentaries, or gifts from gambling establishment staff or patrons, 19

¹⁹ Suggestion by Third Party Industry Members, mirrored here in Gambling Businesses.

1	(9) The supervisor or player has committed any of the acts listed in
2	California Code of Regulations, title 4, section 12220.18, subdivision
3	(a), or
4	(10) The supervisor or player has failed to comply with California
5	Code of Regulations, title 4, section 12220.21.
6	(d) A supervisor or player, as those terms are used in California Code of
7	Regulations, title 4, section 12220, shall be subject to a minimum penalty of a
8	monetary penalty of \$300 and/or a suspension of 7 days and a maximum penalty
9	of revocation if the Commission finds that:
10	(1) The supervisor or player has intentionally misrepresented a material
11	fact on an application, request to convert, or supplemental application
12	for licensure, registration, or approval,
13	(2) The supervisor or player has been cheating, pursuant to Penal Code,
14	section 337x,
15	(3) The supervisor or player has committed extortion (as that term is
16	defined in Chapter 7 of Title 13 of Part 1 of the Penal Code,
17	commencing with section 518),
18	(4) The supervisor or player has committed loan-sharking (as that term is
19	used in Civil Code section 1916-3, subdivision (b)),
20	(5) The supervisor or player has conducted or negotiated illegal sales of
21	controlled substances (as that term is used in Chapter 1 (commencing
22	with Section 11000) of Division 10 of the Health and Safety Code) or
23	dangerous drugs (as that term is used in Business and Professions
24	Code, section 4022),
25	(6) The supervisor or player has committed bribery (as that term is used in
26	Penal Code section 67 or 67.5),
27	(7) The supervisor or player has committed money laundering (as that term
28	is used in Chapter 10 of Title 7 of Part 1 of the Penal Code,
29	commencing with Section 186.9),
30	(8) The supervisor or player has committed any of the acts listed in
31	California Code of Regulations, title 4, section 12220.18 subdivisions
32	(c), (d), (f), (g), (h), (i), (j), or (k).
33	(e) A license or registration granted by the Commission for an owner of a
34	gambling business, or for a supervisor or player, as those terms are used in
35	California Code of Regulations, title 4, section 12220, shall be subject to
36	revocation if the Commission finds that:
37 38	(1) The owner, supervisor, or player has been convicted of a felony or a crime of moral turpitude that would disqualify the holder from licensure, or

1 2 3	eli	e owner, supervisor, or player no longer meets any criterion for gibility, pursuant to California Code of Regulations, title 4, sections 224 or 12220.11.
4 5 6 7	Authority:	Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19859, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931, and 19971 of the Business and Professions Code.
8 9 10	Reference:	Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880, 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the Business and Professions Code.
11		
12	12564. Disc	ciplinary Guidelines for Manufacturers or Distributors
13 14 15 16 17	gambling ed Commission	on granted by the Commission for a manufacturer or distributor of quipment shall be subject to suspension or revocation by the if the Commission finds that the registrant has violated California Code ons, title 4, section 12303, subdivision (b).
18 19 20	Authority:	Sections 19801(g), 19811, 19823, 19824, 19827(a)(1), 19840, 19841(r), 19850, 19854, 19859, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931, and 19971 of the Business and Professions Code.
21 22 23	Reference:	Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880, 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the Business and Professions Code.
24		
25	12566. Disc	ciplinary Guidelines for Gambling Establishments
26 27 28 29 30 31 32	any man Commiss disciplina 19922, th of a pen	mmission finds that a gambling establishment is out of compliance with datory duty specified in or imposed by the Gambling Control Act or any sion or Division regulation, which is not otherwise listed in these ary guidelines, pursuant to Business and Professions Code section ne penalty shall be one day of suspension, stayed upon the payment alty , within the guidelines of Business and Professions Code, sections ubdivision (c), and 19943, subdivision (b), as follows:
33 34 35	ga	he establishment has five tables or less and has an annual gross ming revenue up to and including \$10,000, the penalty shall be between 0 and \$100, based upon the factors in mitigation and aggravation.
36 37 38 39	rev be	he establishment has ten tables or less and has an annual gross gaming venue over \$10,000, up to and including \$200, 000, the penalty shall be tween \$100 and \$2000, based upon the factors in mitigation and gravation.

(11) Violated Business and Professions Code, section 19941 (failure to

prohibit persons under 21 from gambling, loitering, being employed in gambling areas, or using fraudulent identification to gamble, loiter, or be

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employed),

1 2		Code, section 19942 (willful failure
3 4 5	disclosure or contribution limitations, pu	
6 7 8	California Code of Regulations, title 4, o	chapter 7, article 4 (commencing
9 10 11 12	information required to be maintained p Regulations, title 4, chapter 7, article 4	oursuant to California Code of (commencing with section 12400),
13 14 15	subsection (a) (failure to maintain owne	
16 17		
18 19	• ,	ons, title 11, section 2070
20 21 22	19912, 19913, 19914, 19920, 19922, 19924, 1	
23 24 25	19913, 19914, 19920, 19922, 19923, 19924, 1	
26		
27	1 0	Licenses, Findings of Suitability,
28	or Approvals	
29 30 31 32 33 34	Commission shall be subject to a minimum disconsisted days of normal business operation and a max which may be stayed on terms and conditions described in section 12554(d)(7) of this chapter	scipline of suspension for three kimum discipline of revocation, and any monetary penalty as
35 36 37	directives imposed by the Commission,	either as part of an initial grant of
38 39	, , , , , , , , , , , , , , , , , , , ,	or deceptive activities in connection

(3) Committed any act punishable as a crime, not otherwise listed in these 1 2 disciplinary guidelines, which substantially relates to the duties and qualifications of the licensee or registrant, or which occurred in a gambling 3 establishment or the associated adjacent property, or 4 5 (4) Engaged in any conduct on the premises of the gambling establishment or in connection with controlled gambling which is inimical to the health, 6 7 welfare, or safety of the general public. 8 (b) A license, finding of suitability, or approval granted by the Commission shall be subject to a minimum discipline of suspension for seven days of normal 9 scheduled work and a maximum discipline of revocation, which may be stayed 10 on terms and conditions and any monetary penalty as described in section 11 12 12554(d)(7) of this chapter, if the Commission finds that the holder has: 13 (1) Intentionally misrepresented a material fact on an application or 14 supplemental application for licensure or registration, (2) Intentionally provided untruthful responses during an investigation by the 15 Division, pursuant to Business and Professions Code, section 19827, 16 (3) Willfully interfered with the performance of Commission or Division duties, 17 pursuant to Business and Professions Code, section 19944, 18 19 (4) Committed an act prohibited by Chapter 9 (commencing with section 319) and Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the 20 Penal Code, including but not limited to operation of a banked or 21 percentage game (Penal Code, section 330), possession or sale of a slot 22 machine (Penal Code, section 330b) or agreement for slot machine payout 23 (Penal Code, section 330.1), bookmaking (Penal Code, section 337), and 24 cheating (Penal Code, section 337x), 25 (5) Committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 26 27 1 of the Penal Code, commencing with section 518), 28 (6) Committed loan-sharking (as that term is used in Civil Code section 1916-3, subdivision (b)), 29 30 (7) Conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with Section 11000) of Division 10 31 of the Health and Safety Code) or dangerous drugs (as that term is used in 32 Business and Professions Code, section 4022), 33 34 (8) As an owner licensee, not taken reasonable steps to prevent the crimes listed in subsections (b)(5) through (b)(8) from occurring at the gambling 35

these crimes were being committed,

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establishment, when the owner licensee knew or should have known that

(9) Committed bribery (as that term is used in Penal Code section 67 or 67.5),

1 2	` ,	Committed money laundering (as that term is used in Chapter 10 of itle 7 of Part 1 of the Penal Code, commencing with Section 186.9),	
3 4	` ,	Been convicted of a crime involving fiscal dishonesty, including but not mited to tax evasion (26 U.S.C. § 7201),	
5 6	(12) ga	Been convicted in any jurisdiction of any offense involving or relating to ambling, or	
7 8	(13) re	Been found to have violated or be in violation of any law involving or elating to gambling in a final administrative decision in any jurisdiction.	
9 10 11	(c) A state gambling license, finding of suitability, or approval granted by the Commission shall be subject to revocation by the Commission on any of the following grounds:		
12 13	(1) If the Commission finds the holder to have been convicted of a felony or a crime of moral turpitude that would disqualify the holder from licensure,		
14 15 16	(2) If the Commission finds the holder to have engaged in or committed a prohibited act specified in Business and Professions Code section 19863 (no more than one gambling establishment at racetrack),		
17 18 19 20	el se	the Commission finds the holder no longer meets any criterion for ligibility, qualification, suitability or continued operation, including those et forth in Business and Professions code sections 19857, 19858, or 9880, as applicable, or	
21 22 23	m	the Commission finds the holder currently meets any of the criteria for andatory denial of an application set forth in Business and Professions ode sections 19859 or 19860.	
24 25 26	Authority:	Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19859, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931 19971, and 19984 of the Business and Professions Code.	
27 28 29	Reference:	Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880, 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the Business and Professions Code.	

19924, 19930, and 19971 of the Business and Professions Code.

15 Reference: Sections 19857, 19858, 19859, 19862, 19870, 19878, 19912, 19913, 19914, 19930, and 16

19931 of the Business and Professions Code. Section 11425.60 of the Government Code.

²⁰ Subsection (3) may be deleted as unnecessary, based on the changes made to Section 12552.